
Costs Decision

Site visit made on 10 December 2019

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Costs application in relation to Appeal Ref: APP/T5150/W/19/3237479 78 Chamberlayne Road, London NW10 3JJ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Nick Panteli for a full award of costs against the Council of the London Borough of Brent.
 - The appeal was against the refusal of planning permission for a two storey side extension plus pitched roof addition to pitched rear outrigger to additional provide 1 X 1B1P flat together with amendments to internal layout of existing HMO.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (the Guidance) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. In order to be successful, an application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Parties in the appeal process are normally expected to meet their own expenses.
3. The applicant contends that the Council has acted unreasonably by: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failed to produce evidence to substantiate each reason for refusal on appeal; and made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. I have had regard to the Council's written response and the applicant's comments in reaching my decision.
5. The applicant is of the view that the Council have imported a policy test which does not exist in any development plan policy. It is the applicant's view that the Council's stance in respect of subservience stems from the Residential Extensions and Alterations Supplementary Planning Document (SPD) 2. However, as the Council rightly stress Policy DMP1 of the London Borough of Brent Local Plan Development Management Policies (DMP) does require development to be acceptable in terms of its scale.
6. The consideration of scale was the principal issue in this case and while the

Council accept that the SPD was not the guidance on which previous schemes were assessed, it is, as it sets out, a consideration. However, regardless of the SPD, DMP Policy DMP1 does, despite the lack of an explicit subservience test, require the decision maker to arrive at a judgement on the scale of development proposed.

7. In reaching their decision and in supporting this stance at appeal, the Council has had regard to the example cited at the opposite end of the terrace. In doing so, the Council has explained why this property differs from the appeal property. I agree with the applicant that it does not matter when this was built, but even if I did not agree with the Council, this does not mean they have acted unreasonably in exercising their planning judgement.
8. On the whole, I do not consider that the Council have imported a policy test that does not exist as they could have arrived at the same view irrespective of the SPD. As such, I do not consider the Council's evidence to be vague, generalised or inaccurate. DMP Policy DMP1 provides a clear reason why development should not be permitted should the proposed development be considered to conflict with this policy.
9. I note that the applicant feels that this is a genuine basis for an award of costs. Nevertheless, the Council was required, through DMP Policy DMP1 to reach a planning judgement based on the proposal and the site's surroundings.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

Andrew McGlone

INSPECTOR